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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,516	09/22/2000	Stephen Gold	30003758 US	9856

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EXAMINER	
NAHAR, QAMRUN	
ART UNIT	**PAPER NUMBER**
2124	10

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PRE

Office Action Summary	Application No.	Applicant(s)	
	09/667,516	GOLD, STEPHEN	
	Examin r	Art Unit	
	Qamrun Nahar	2124	

-- The MAILING DATE of this communication appears on the cover sh et with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

1. This action is in response to the amendment filed on 10/10/03.

2. The rejections under 35 U.S.C. 103(a) as being unpatentable over Cheston (U.S. 6,195,695) in view of Bearden (U.S. 6,490,723) are moot in view of the new ground(s) of rejection.

3. The rejections under 35 U.S.C. 103(a) as being unpatentable over Cheston (U.S. 6,195,695) in view of Bearden (U.S. 6,490,723), and further in view of Doran, Jr. (U.S. 6,385,766) are moot in view of the new ground(s) of rejection.

4. Claims 1-7, 9, 11, 13-16 and 18 have been amended.

5. Claims 1-20 are pending.

6. Claims 1-5 stand finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 1, 3-8, 11-17 and 19-20 stand finally rejected under 35 U.S.C. 102(e) as being anticipated by Chrabaszcz (U.S. 6,138,179).

8. Claims 2, 9 and 18 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Chrabaszcz (U.S. 6,138,179) in view of Bearden (U.S. 6,490,723).

9. Claim 10 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Chrabaszcz (U.S. 6,138,179) in view of Doran, Jr. (U.S. 6,385,766).

Response to Amendment

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said data device" in lines 12 and 13 of the claim. There is insufficient antecedent basis for this limitation in the claim. This limitation is interpreted as "said data storage device".

Claims 2-5 are rejected for dependency upon rejected parent claim.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1, 3-8, 11-17 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Chrabaszcz (U.S. 6,138,179).

Per Claim 1 (Amended, as best understood):

Chrabaszcz discloses a method of manufacture of an operating system master template for installing at least one operating system onto a computer entity (abstract), installing a primary operating system on a first partition of a data storage device ("active DOS partition", column 3, lines 15-27); installing a secondary operating system on a second partition of said data storage device ("extended DOS partition", column 3, lines 15-27); installing an installation component on a third partition of said data storage device ("free area", column 7, lines 39-46); wherein said first, second, and third partitions of said data storage device are separate from each other (column 7, lines 39-46); and wherein said secondary operating system is installed on said second of said plurality of partitions of said data storage device only upon said primary operating system installed on said first of said plurality of partitions of said data storage device being in a non-running static state (column 7, lines 53-67 to column 8, lines 1-25).

Per Claim 3 (Amended, as best understood):

Chrabaszcz further discloses a back-up application sub-component for installation of a back-up application onto said computer entity (column 7, lines 2-15).

Per Claim 4 (Amended, as best understood):

Chrabaszcz further discloses a plurality of set up data files for set up of said primary operating system, and a set up data file installation component for installing said set up data files onto said computer entity, and for deletion of said set up data files after a successful set up of said primary operating system (column 8, lines 5-67 to column 9, lines 1-6).

Per Claim 5 (Amended, as best understood):

Chrabaszcz further discloses a plurality of set up data files for set up of said secondary operating system, and a set up data file installation component for installing said set up data files onto said computer entity and for deletion of said set up data files after a successful set up of said secondary operating system (column 8, lines 5-67 to column 9, lines 1-6).

Per Claim 6 (Amended):

This is another version of the claimed method discussed above (claims 1, 4, and 5), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 7 (Amended):

Chrabaszcz further discloses running a program to set up license key data on a further partition of said plurality of partitions of said data storage device (column 9, lines 36-67 to column 10, lines 1-38).

Per Claim 8:

Chrabaszcz further discloses that the third partition onto which said installation component is installed comprises a reserved space partition, which is separate from said first and second partitions on which said primary and secondary operating systems are installed (column 8, lines 26-49).

Per Claim 11 (Amended):

Chrabaszcz further discloses that the step of installing said installation component comprises installing a back-up program installation component for installing a back-up program on said computer entity (column 7, lines 2-15).

Per Claim 12:

This is another version of the claimed method discussed above, claim 5, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 13 (Amended):

Chrabaszcz further discloses creating system identification data on said data storage device, wherein said system identification data uniquely identifies a relationship between said operating system and said computer entity (column 7, lines 53-67 to column 8, lines 1-4).

Per Claim 14 (Amended):

This is a computer entity product version of the claimed method discussed above, claim 6, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 15 (Amended):

This is another version of the claimed method discussed above, claim 1, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above, including "loading said master template data into a mastering computer entity to create an image of said master template data on said mastering computer entity" and "replicating said master disk image data by loading said master disk image data from said mastering computer entity onto said production computer entity" (column 7, lines 53-67 to column 8, lines 1-4). Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 16 (Amended):

This is another version of the claimed method discussed above, (claims 4 and 5), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 17:

This is another version of the claimed method discussed above, claim 3, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Chrabaszcz.

Per Claim 19:

Chrabaszcz further discloses that the installation component is installed on a third partition of said production computer entity (column 7, lines 53-67 to column 8, lines 1-4).

Per Claim 20:

Chrabaszcz further discloses creating a plurality of partitions on a data storage device of said production computer entity (column 7, lines 53-67 to column 8, lines 1-4).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 2, 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chrabaszcz (U.S. 6,138,179) in view of Bearden (U.S. 6,490,723).

Per Claim 2 (Amended, as best understood):

The rejection of claim 1 is incorporated, and further, Chrabaszcz does not explicitly teach that the installation component comprises database installation sub-components configured for installation of database onto a said computer entity. Bearden teaches that the installation component comprises database installation sub-components configured for installation of database onto a said computer entity (column 5, lines 55-67 to column 6, lines 1-32).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Chrabaszcz to include that the installation component comprises database installation sub-components configured for installation of database onto a said computer entity using the teaching of Bearden. The

modification would be obvious because one of ordinary skill in the art would be motivated to install files, in which an installation process can be customized without always individually customizing an installation file before initiating the installation process for the installation file's associated software application (Bearden, column 1, lines 26-30).

Per Claim 9 (Amended):

This is another version of the claimed method discussed above, claim 2, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

Per Claim 18 (Amended):

This is another version of the claimed method discussed above, claim 2, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chrabaszcz (U.S. 6,138,179) in view of Doran, Jr. (U.S. 6,385,766).

Per Claim 10:

The rejection of claim 6 is incorporated, and further, Chrabaszcz does not explicitly teach the step of deleting said installation component comprises deleting a database installation component after a successful installation of a database on said computer entity. Doran, Jr.

teaches that the step of deleting said installation component comprises deleting a database installation component after a successful installation of a database on said computer entity (column 16, lines 1-21).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Chrabaszcz to include the step of deleting said installation component comprises deleting a database installation component after a successful installation of a database on said computer entity using the teaching of Doran, Jr. The modification would be obvious because one of ordinary skill in the art would be motivated to save space by deleting the installation component after a successful installation.

Response to Arguments

17. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (703) 305-7699. The examiner can normally be reached on Mondays through Thursdays from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (703) 305-9662. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

QN
December 30, 2003

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100